

# Department of Homeland Security **Office of Inspector General**

**FEMA Should Recover \$1.3 Million of Public Assistance Grant Funds Awarded to Desire Street Ministries, New Orleans, Louisiana, for Hurricane Katrina**






## OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

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June 17, 2014

MEMORANDUM FOR: George A. Robinson  
Regional Administrator, Region VI  
Federal Emergency Management Agency

FROM: John V. Kelly   
Assistant Inspector General  
Office of Emergency Management Oversight

SUBJECT: *FEMA Should Recover \$1.3 Million of Public Assistance Grant Funds Awarded to Desire Street Ministries, New Orleans, Louisiana, for Hurricane Katrina*  
FEMA Disaster Number 1603-DR-LA  
Audit Report Number OIG-14-107-D

We audited Public Assistance grant funds awarded to Desire Street Ministries, Inc., in New Orleans, Louisiana (Public Assistance Identification Number 071-UI9SO-00). Our audit objective was to determine whether Desire Street Ministries accounted for and expended Federal Emergency Management Agency (FEMA) grant funds according to Federal regulations and FEMA guidelines. Although it has been almost 9 years since Hurricane Katrina, Desire Street Ministries has not spent the majority of its funding. Therefore, we expanded our audit objective to determine whether its policies, procedures, and business practices were adequate to account for and expend FEMA grant funds according to Federal regulations and FEMA guidelines. Our goal was to identify areas where Desire Street ministries may need additional technical assistance or monitoring to correct non-compliance with Federal regulations before it spends the majority of its funding.

The Louisiana Governor's Office of Homeland Security and Emergency Preparedness (Louisiana), a FEMA grantee, awarded Desire Street Ministries \$10.1 million for damages resulting from Hurricane Katrina, which occurred on August 29, 2005. The award provided 100 percent funding for five large and two small projects.<sup>1</sup> The audit covered the period August 29, 2005, through November 1, 2012, the cutoff date of our audit and included a review of all projects (see Exhibit A, Schedule of Projects Audited and Questioned Costs).<sup>2</sup> As of our cutoff date, Desire Street Ministries had claimed \$1.8 million, but had not completed all its approved projects. Subsequently, in December 2012, Desire Street Ministries requested approval for an alternate project to build a community wellness center, rather than replace its school building. FEMA approved the alternate project in January 2014. Therefore, for this alternate project, we

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<sup>1</sup>Federal regulations in effect at the time of the disaster set the large project threshold at \$55,500.

<sup>2</sup>We audited the gross amount of \$10.9 million awarded before reductions for insurance.



extended our audit cutoff date to January 23, 2014. Desire Street Ministries had started the design phase for the community wellness center, but had not started construction.

We conducted this performance audit between November 2012 and October 2013 pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards.<sup>3</sup> Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objective. We conducted this audit by applying the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.

We interviewed FEMA, Louisiana, and Desire Street Ministries officials; judgmentally selected and reviewed specific project costs (generally based on dollar value); reviewed procurement policies and procedures; reviewed applicable Federal regulations and FEMA guidelines; and performed other procedures considered necessary to accomplish our objective. We also notified the Recovery Accountability and Transparency Board of all contracts the subgrantee awarded under the grant to determine whether the contractors were debarred or whether there were any indications of other issues related to those contractors that would indicate fraud, waste, or abuse. We did not perform a detailed assessment of Desire Street Ministries' internal controls applicable to grant activities because it was not necessary to accomplish our audit objective. However, we did gain an understanding of Desire Street Ministries' accounting and procurement policies, procedures, and business practices related to disaster work.

## **BACKGROUND**

Desire Street Ministries is a private nonprofit organization. In 2002, Desire Street Ministries began operating a junior-senior level high school called Desire Street Academy, located in New Orleans, Louisiana. Hurricane Katrina struck Louisiana on August 29, 2005; causing widespread flooding that submerged Desire Street Academy under 8 feet of water. Following Hurricane Katrina, Desire Street Ministries temporarily relocated the school to Destin, Florida until May 2006. In June 2006, Desire Street Ministries relocated the school to Baton Rouge, Louisiana. Desire Street Ministries also owned a building that it leased to Children's Hospital as a medical clinic; however, insurance covered all costs to repair it. Exhibit B provides additional background information about Desire Street Ministries' facilities and its activities after Hurricane Katrina.

Desire Street Ministries officials did not apply for Public Assistance until July 2009 because they were unaware they might qualify for Federal disaster assistance until the

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<sup>3</sup> After our exit conference with FEMA in October 2013, we performed additional audit work to assess Desire Street Ministries' progress on the alternate project FEMA approved in January 2014.



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Governor’s office suggested they apply. FEMA accepted Desire Street Ministries’ application in September 2009. Typically, applicants must apply for Public Assistance within 30 days after a disaster declaration.<sup>4</sup> However, FEMA made an exception for Hurricane Katrina and allowed hundreds of private nonprofit organizations, such as Desire Street Ministries, to apply for assistance years after the disaster.

By September 2009 when FEMA accepted Desire Street Ministries’ application, Desire Street Ministries no longer operated any type of school. However, because Desire Street Ministries operated as a school at the time of the disaster, FEMA approved funding for the costs of damages to Desire Street Ministries’ facilities and for some costs for temporary facilities. Table 1 shows the scope of work FEMA approved along with the gross and net award amounts before and after reductions for insurance for all projects.

**Table 1. Gross and Net Award Amounts for Desire Street Ministries Projects**

Project Number	Approved Scope	Gross Award Amount	Insurance Reductions	Net Award Amount
19243	Replace multi-purpose school building	\$ 9,030,770	\$(504,116)	\$ 8,526,654
19422	Contents of multi-purpose school building	957,810	(127,700)	830,110
19967	Repair temporary facilities in Baton Rouge, Louisiana	648,429	(0)	648,429
19689	Temporary facilities in Florida	93,087	(0)	93,087
19276	Repair 2-story duplex	109,108	(80,324)	28,784
19295	Contents of 2-story duplex	2,559	(279)	2,280
19277	Repair clinic building	<u>42,337</u>	<u>(42,337)</u>	<u>0</u>
Totals		<u>\$10,884,100</u>	<u>\$(754,756)</u>	<u>\$10,129,344</u>

Source: FEMA Project Worksheets

**RESULTS OF AUDIT**

Desire Street Ministries did not always account for and expend FEMA grant funds according to Federal regulations and FEMA guidelines. To date, Desire Street Ministries has claimed \$1.8 million, of which we question \$1.3 million as ineligible:

- \$1,297,421 for non-exigent contract work that did not comply with Federal procurement standards. The contracts were for project management services and architectural/engineering services in connection with replacing the school;

<sup>4</sup> *Public Assistance Guide* (FEMA 322, October 1999, p. 66).



- \$3,794 in erroneous overpayments; and
- \$1,597 in ineligible sales tax Desire Street Ministries paid in the State of Florida.

Desire Street Ministries has not spent the majority of its \$10.1 million award because FEMA recently approved an alternate project for Desire Street Ministries to build a community wellness center, rather than to replace its main school building. We reviewed Desire Street Ministries' policies, procedures, and business practices and found them inadequate to expend FEMA grant funds according to Federal regulations and FEMA guidelines. Therefore, to prevent future ineligible costs, we advised Desire Street Ministries on several requirements for Federal grants such as following procurement standards and obtaining and maintaining insurance. However, FEMA should direct Louisiana to monitor Desire Street Ministries' construction of the alternate project to ensure compliance with Federal regulations and FEMA guidelines.

**Finding A: Noncompliance with Federal Procurement Standards**

Desire Street Ministries did not follow all Federal procurement standards in awarding two contracts totaling \$1,297,421. As a result, we question these costs as ineligible. Title 2 Code of Federal Regulations (CFR), Part 215, states, in part, that grant recipients must—

- perform some form of a cost or price analysis in connection with every procurement action (2 CFR 215.45), and
- include specific provisions in all contracts and subcontracts as applicable (2 CFR 215.48).

Desire Street Ministries awarded two contracts totaling \$1,297,421 for Project Management Services and Professional Architectural/Engineering Services in connection with replacing its school. Desire Street Ministries publicly advertised the two contracts, but did not provide any support for performing a cost or price analysis or include required provisions in its contracts. By not performing a cost or price analysis, Desire Street Ministries increased the likelihood of unreasonably high or low prices, contractor misinterpretations, and errors in pricing relative to the scope of work. By not including required contract provisions in its contracts, Desire Street Ministries did not properly protect the rights and responsibilities of the parties to minimize risk of misinterpretations and disputes. For example, the termination provision (2 CFR 215.48(b)) gives the subgrantee the right to end an agreement with a contractor for nonperformance; and the access to records provision (2 CFR 215.48(d)) gives the subgrantee, the grantee, and FEMA the right to examine the contractor's records.

Desire Street Ministries awarded these two contracts in November 2010 and February 2011, after it became a FEMA grant recipient. Therefore, Louisiana, as grantee, should have monitored Desire Street Ministries' contracting activities to ensure compliance with Federal procurement regulations. According to 44 CFR 13.37(a)(2), the grantee is required to ensure that subgrantees are aware of requirements that Federal regulations





impose on them; and 44 CFR 13.40(a) requires the grantee to manage the day-to-day operations of subgrant activity and monitor subgrant activity to ensure compliance with applicable Federal requirement.

**Finding B: Erroneous Overpayments**

Desire Street Ministries claimed \$3,794 in erroneous overpayments to a contractor. This amount consisted of \$2,697 resulting from various math errors in the contractor's invoices and \$1,097 that exceeded an invoice amount. According to 2 CFR 215.21(b)(1), recipients' financial management systems shall provide for accurate, current, and complete disclosure of the financial results of each federally-sponsored project. Therefore, we question \$3,794 as ineligible. Desire Street Ministries' officials agreed that they overpaid the contractor by this amount.

**Finding C: Ineligible Sales Tax**

Desire Street Ministries' claim for temporary facilities in Destin, Florida included \$1,597 of ineligible sales tax. Florida's Sales and Use Tax on Rental of Living or Sleeping Accommodations law exempts nonprofit organizations from paying State sales tax. Desire Street Ministries obtained the tax exemption, but did not adjust the lease payments to exclude the tax. Desire Street Ministries agreed with this finding and said that the overpayment was an oversight. Therefore, we question \$1,597 as ineligible because the payment was not necessary or reasonable as Federal cost principles require (2 CFR 230, Appendix A, A.2.a and 3.a.).

**Finding D: Alternate Project**

In January 2014, FEMA approved an alternate project for Desire Street Ministries to build a community wellness center, rather than to replace its main school building. Our audit results indicated that Desire Street Ministries was not thoroughly familiar with Federal procurement standards and did not have sufficient policies, procedures, and business practices to expend FEMA grant funds according to Federal regulations and FEMA guidelines. Therefore, the risk is high that Desire Street Ministries might not fully comply with these standards in constructing the new community wellness center. Compliance with these standards helps ensure reasonable costs and open and free competition, and decreases the risk of fraud, waste, and abuse of Federal funds.

Generally, FEMA caps an alternate project at 90 percent of the original project. More specifically, FEMA limits funding to "90 percent of the Federal share of the eligible costs that would have been associated with repairing the damaged facility to its pre-disaster design [in this case, replacing the facility] or to the actual costs of completing the alternate project, whichever is less."<sup>5</sup> However, in the case of Hurricanes Katrina and

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<sup>5</sup> *Public Assistance Guide* (FEMA 322, October 1999, p. 84).



Rita, special legislation enables FEMA to fund educational facilities at 100 percent.<sup>6</sup> Therefore, FEMA will limit funding for the community wellness center to the \$8,526,654 FEMA estimated and approved for replacing the school.

To prevent future ineligible costs, we advised Desire Street Ministries on several requirements for Federal grants such as following procurement standards and obtaining and maintaining the required amount of insurance for the wellness center. However, FEMA should direct Louisiana to monitor Desire Street Ministries' construction of the alternate project to ensure compliance with Federal regulations and FEMA guidelines.

### **RECOMMENDATIONS**

We recommend that the Regional Administrator, FEMA Region VI:

**Recommendation #1:** Disallow \$1,297,421 of ineligible contract costs that did not comply with Federal procurement standards, unless FEMA decides to grant an exception for all or part of the costs as provided for in 2 CFR 215.4 and Section 705(c) of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended (finding A).

**Recommendation #2:** Disallow \$3,794 of ineligible overpayments (finding B).

**Recommendation #3:** Disallow \$1,597 in ineligible sales tax (finding C).

**Recommendation #4:** Direct Louisiana to monitor Desire Street Ministries' construction of the alternate project to ensure compliance with Federal regulations and FEMA guidelines (finding D).

### **DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP**

We discussed the results of our audit with Desire Street Ministries' officials during our audit and included their comments in this report, as appropriate. We also provided a draft report in advance to FEMA, Louisiana, and Desire Street Ministries officials. We discussed it at exit conferences held with FEMA on October 23, 2013, and had a subsequent discussion with FEMA officials on May 29, 2014. FEMA generally agreed with the findings and recommendations. We discussed our report at an exit with Louisiana and Desire Street Ministries officials on October 23, 2013. Louisiana generally agreed with the findings and recommendations except for Recommendations #1 and #3. Desire Street Ministries generally agreed with the findings and recommendations except for Recommendation #1. Subsequently, we provided Louisiana officials an updated draft report on May 29, 2014 to advise them that we had added Recommendation #4 to this report.

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<sup>6</sup> *Supplemental Appropriations Act 2009* (Public Law 111-32).



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Within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for each recommendation. Also, please include the contact information of responsible parties and any other supporting documentation necessary to inform us about the status of the recommendation. Until we receive and evaluate your response, we will consider the recommendations open and unresolved.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to appropriate congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Major contributors to this report are Christopher Dodd, Acting Director; Judy Martinez, Supervisory Program Analyst; Ronald Jackson, Auditor-in Charge; and Dwight McClendon, Program Analyst.

Please call me with any questions at (202) 254-4100, or your staff may contact Christopher Dodd, Acting Director, Central Regional Office, at (214) 436-5200.





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**Exhibit A**

**Schedule of Projects Audited and Questioned Costs**

<b>Project Number-Category of Work</b>	<b>Net Award Amount</b>	<b>Finding A</b>	<b>Finding B</b>	<b>Finding C</b>	<b>Total Questioned Costs</b>
19243-E	\$ 8,526,654	\$1,297,421	\$ 0	\$ 0	\$1,297,421
19422-E	830,110	0	0	0	0
19967-B	648,429	0	0	0	0
19689-B	93,087	0	0	1,597	1,597
19276-E	28,784	0	3,794	0	3,794
19295-E	2,280	0	0	0	0
19277-E	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b>Totals</b>	<u>\$10,129,344</u>	<u>\$1,297,421</u>	<u>\$3,794</u>	<u>\$1,597</u>	<u>\$1,302,812</u>

Source: FEMA project worksheets and OIG results of audit



**Additional Background Information on Desire Street Ministries**

Desire Street Ministries Operations at the Time of Hurricane Katrina

At the time of Hurricane Katrina in August 2005, Desire Street Ministries operated in three locations in the Upper Ninth Ward of New Orleans:

1. A multipurpose building (school) located at 3600 Desire Parkway called Desire Street Academy. Desire Street Ministries operated the school with over 100 students in this building that included ancillary rooms, gymnasium, kitchen, classrooms, and offices. After the hurricane, Desire Street Ministries received \$504,116 in insurance proceeds from its insurance company. Desire Street Ministries' officials said they opened the building as free accommodation for more than 1,200 volunteers who came to help clean up and work in the Ninth Ward over the course of the following year; they housed over 5,000 volunteers in the 4 years after Hurricane Katrina. Desire Street Ministries no longer used the building as a school. After FEMA accepted Desire Street Ministries' September 2009, application for Public Assistance, it inspected the building and determined that the cost to repair it would exceed 50 percent of the cost to replace it. Therefore, in accordance with its "50 Percent Rule," FEMA approved funding to replace the school and its contents (see projects 19243 and 19422 in table 1 for gross and net award amounts).<sup>7</sup>
2. A two-story brick veneer duplex located next to the school building that Desire Street Ministries used as administrative office space and staff housing. Desire Street Ministries repaired the duplex in 2007. The duplex did not have flood insurance and FEMA approved funding for repairs to the building and replacement of its contents (see projects 19276 and 19295 in table 1 for gross and net award amounts).
3. Desire Street Ministries owned a two-story brick veneer building located at 3512 Louisa Street that it leased to Children's Hospital as a medical clinic. Desire Street Ministries received \$158,748 in flood insurance proceeds from its insurance carrier. FEMA estimated the damages resulting from the hurricane at \$42,337 on Project 19277. Because the insurance reimbursement exceeded its repair estimate, FEMA "zeroed out" the project (deobligated the full amount).

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<sup>7</sup> According to Federal regulation 44 CFR 206.226(f) (1), "A facility is considered repairable when disaster damages do not exceed 50 percent of the cost of replacing a facility . . ." FEMA refers to this regulation as the "50 Percent Rule" and implements it according to its Disaster Assistance Policy 9524.4.



**Exhibit B (continued)**

Temporary Facilities Desire Street Ministries Used in Florida after Hurricane Katrina

On October 3, 2005, Desire Street Ministries evacuated 9 teachers, 5 administrative school staff and 89 students to Niceville and Destin, Florida. Desire Street Ministries leased multiple buildings and established temporary facilities in Florida to continue school and business operations and provide housing for the students. For the Florida locations, FEMA approved Project 19689 totaling \$93,087 as Category B, Emergency Protective Measures.

Temporary Facilities Desire Street Ministries Used in Baton Rouge, Louisiana after Hurricane Katrina

The school, faculty, and students relocated again on June 1, 2006, to its new temporary facilities in Baton Rouge, Louisiana. In November 2005, Desire Street Ministries purchased four buildings and 21.7 acres of land in Baton Rouge. On June 1, 2006, after repairs and other work, Desire Street Ministries opened the facilities as a school for 93 students. The school remained open until June 1, 2009. Desire Street Ministries submitted to FEMA over \$961,000 in invoices for work it performed on these facilities. FEMA determined that \$648,429 was a reasonable amount for repairs and obligated that amount for Project 19967 as Category B, Emergency Protective Measures.



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